IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL, CIVIL JURISDICTION

WRIT PETITION NO.1529 OF 2006

Shramik Mahasangh.....Petitioner

Vs.

Union of India & Ors.....Respondents

Ms.Jane Cox for the Petitioner

Mr. S.S. Pakale with Mr. Kiran Khanpile for

respondent No.1.

Mr. V. Joglekar i/b. Little & Co., for Respondent

No.2

CORAM: **F.I. REBELLO &**

MRS.V.K.TAHILRAMANI, JJ.

DATE: **26th July,2006**

P.C.

. Rule. Heard forthwith.

2. Pursuant to the matter being taken in conciliation by the petitioners the Conciliation Officer has submitted a failure report dated January 17, 2005. In the said report it is set out that the Union has admitted that out of eleven workmen only five workmen are concerned with the National Dairy Development Board. In respect of the other workmen the report indicates that the Union was asked to file separate application in respect of the Fruit & Vegetable Project which is an independent organisation and as and when an application is

submitted necessary report will be submitted to the Government.

2. Subsequent to that, Contract Fruits & Vegetable Project Union, which has now merged with the petitioner Union submitted a representation on 1st February, 2005 expressing their surprise at the failure report as submitted by the Conciliation Officer. There is a further communication of 1st February, 2005. Our attention is invited also to representation dated 234rd December, 2004 whereby the Union had set out that the workmen listed at Annexure "A" be treated as direct permanent employees of the National Dairy Development Board or in the alternative the workmen at Serial Nos. 7 to 11 of Annexure "A" be treated as direct and permanent employees of the National Development Board and that the workmen at Serial Nos. 1 to 6 be treated as direct and permanent employees of Fruit & Vegetable Project.

3. Considering the above, we direct the Regional Labour Commissioner (Central) Mumbai within four weeks from today to either submit an additional Failure Report in respect of the workmen who are left out or a fresh Failure Report in respect of the workmen who are left out.

4. The Appropriate Government thereafter to take decision according to law under Section 12(5) of the

Industrial Disputes Act, on the Failure Report dated 1st October, 2005, as also the additional/fresh Failure Report which may be submitted by the Conciliation Officer at any rate not later than eight weeks from receipt of additonal failure report and/or another failure report.

5. The Regional Labour Commissioner before making additional/fresh Failure Report to hear all the parties concerned.

6. On behalf of the Respondent No.2 it is pointed out that the respondent No.3 is now known as Mother Dairy Food Process Limited is not a Unit of National Dairy Development Board, but an independent Company incorporated under the provisions of the Indian Companies Act. It is for the Union and the Conciliation Officer after hearing the parties to deal with the same.

(**F.I. REBELLO**, J.)

(MRS.V.K.TAHILRAMANI, J)